

VZCZCXRO4010
RR RUEHAG RUEHDF RUEHIK RUEHLZ
DE RUEHVI #1188/01 1151413
ZNR UUUUU ZZH
R 251413Z APR 06
FM AMEMBASSY VIENNA
TO RUEHC/SECSTATE WASHDC 3213
INFO RUEATRS/DEPT OF TREASURY WASHDC
RUEAWJA/DEPT OF JUSTICE WASHDC
RHEFHLC/DEPT OF HOMELAND SECURITY WASHDC
RUCNFB/FBI WASHDC
RUEABND/DEA HQS WASHINGTON DC
RUCNMEM/EU MEMBER STATES

UNCLAS SECTION 01 OF 02 VIENNA 001188

SIPDIS

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TREASURY FOR FTAT AND OFAC
TREASURY FOR OCC (EILEEN SIEGEL)
TREASURY ALSO FOR OASIA/ICB (VIMAL ATUKORALA)
TREASURY PLEASE PASS TO FEDERAL RESERVE AND SEC
(E.JACOBS)
TREASURY ALSO PASS TO FINCEN
DHS FOR CBP/ICE
JUSTICE FOR DOJ/CRM/ATMLS AND FOR OIA (RICHARD OWENS)
DEA HEADQUARTERS FOR DOF AND OFE
FBI FOR CID

E.O. 12958: N/A

TAGS: [EFIN](#) [PTER](#) [ETTC](#) [AU](#)

SUBJECT: GoA Intensifies Fight Against Misuse of
Financial Markets

Summary

¶1. The GoA has approved new regulations that will give the Austrian Financial Market Authority (FMA) additional powers against the misuse of financial markets for money laundering and terrorist financing. The legal regulations will authorize the FMA to prosecute the unauthorized operation of financial entities, file receivership or bankruptcy procedures for investment service providers, and impose fines for failing to comply with enforcement orders. These regulations follow-up on the binding guidance, which the FMA issued in January, on the complex customer identification regulations, which aim to enforce and clarify the know-your-customer principle. End Summary.

Strengthening Financial Oversight

¶2. The Austrian Parliament's Plenary recently passed a GoA omnibus bill on financial issues. The legislation helps the Austrian Financial Market Authority (FMA) to fight the misuse of financial markets for money laundering and terrorist financing, prosecute the unauthorized operation of financial entities, and strengthen enforcement measures. The new regulations also provide for an increase in administrative fines by 50% or more.

Prosecuting Unauthorized Business

¶3. The new law allows the FMA to prosecute unauthorized financial service providers and gives the FMA additional means to execute these provisions. (Note: The current law only allows FMA oversight of licensed businesses. End Note.) The FMA will be able to request information and data from natural and legal persons, check books,

documents and electronic data storage media, and can publicize information about sanctions against individuals and firms. Independent from criminal proceedings, the FMA can order unauthorized businesses to regularize their legal situation. In case of non-compliance, the FMA can undertake a wide variety of measures, from stopping websites to closing down the business. Penalties to enforce any such FMA decision will rise to Euro 30,000 (\$37,500) from Euro 726 (\$908). FMA fines for unauthorized banking or other financial services providing will rise from Euro 20,000 (\$25,000) to Euro 50,000 (\$62,500).

Sharp Increase in FMA Fines

14. The legislation provides for substantial increases in fines in a wide variety of areas. A new default fine of Euro 7,000 (\$8,750) in cases in which financial service providers do not meet their legal obligations, do not implement FMA orders in a timely manner, or fail to provide the FMA requested documents, data, financial statements, and audit reports. Moreover, the omnibus bill foresees a general 50% or more increase in FMA fines for administrative violations of the Banking Act, Investment Fund Act, Real Estate Investment Fund Act, Securities Supervision Act, E-money act, Stock Exchange Act, Capital Market Act, and Insurance Supervision Act.

Stricter Regulations for Securities Supervision

VIENNA 00001188 002 OF 002

15. The legislation also tightens the Securities Supervision Act to prevent financial losses for customers of investment service providers. The FMA may prohibit the withdrawal of equity or profits or the distribution of profits, appoint a qualified lawyer or accounting professional as government commissioner, or forbid the current managers from directing the firm. The FMA will be party to any receivership and bankruptcy procedures.

FMA Outlines Customer Identification Procedures

16. In January, the FMA issued a "Circular Letter on Identification" to intensify efforts to combat money laundering and terrorist financing. The circular aims to establish uniform interpretations of customer identification regulations, which in practice have varied. It also serves as binding guidance and establishes the know-your-customer principle as the supreme principle for banks, insurers and financial services brokers. The FMA stated that financial providers "must not accept funds from anonymous individuals." Financial service providers must furthermore ensure that they do not establish business relations with persons who are under criminal investigation or who are on international lists of wanted persons. Financial service providers must know their customers and have their ID data available at any time. Among other things, the circular elaborates on procedures for the identification of legal persons, in case of trusteeship, and for non-face to face transactions. The full text of the circular is available on the FMA's homepage (in German language only):
<http://www.fma.gv.at/de/pdf/rs-id-31.pdf>